


# DOUGLAS COUNTY ATTORNEY'S OFFICE

## MEMORANDUM

TO: HARVEY TEWES  
DOUGLAS COUNTY AUDITOR

FROM: CHRISTOPHER D. KARPAN   
DOUGLAS COUNTY ATTORNEY

DATE: JULY 3, 2001

RE: **DANGEROUS DOG ORDINANCE**

Attached you will find the original Dangerous Dog Ordinance and supporting resolution passed by the Douglas County Board on June 27, 2001. Minnesota state statute requires that your office keep a compilation of all county ordinances. It is also necessary to attach proof of publication of this ordinance and I will forward that to you when I receive it from the Echo Press.

CDK/nw

## **DOUGLAS COUNTY ORDINANCE NO. 62701**

### **DOUGLAS COUNTY DANGEROUS DOG ORDINANCE**

Douglas County finds it is important to provide an ordinance that will ensure the safety of the residents of Douglas County by regulating potentially dangerous and dangerous dogs.

NOW, THEREFORE, the Douglas County Board of Commissioners does hereby ordain as follows:

SECTION 1. TITLE. This ordinance shall be known as the Douglas County Dangerous Dog Ordinance, Douglas County Ordinance No.62701.

SECTION 2. PURPOSE. The purpose and intent of this ordinance is to ensure the safety of the residents of Douglas County by regulating potentially dangerous and dangerous dogs.

SECTION 3. INCORPORATION OF STATE LAW. Douglas County hereby incorporates Minnesota Statutes Section 347.50 through 347.54 into this ordinance. If any of the provisions of this ordinance are more restrictive than State law, then those more restrictive provisions shall apply and be enforced.

#### **SECTION 4. DEFINITIONS.**

Animal Shelter - Any premises designated by the county for the purposes of impounding and caring for all dogs found in violation of this ordinance.

Animal Control Officers - An officer employed by or under contract with the county who is responsible for animal control enforcement. This definition specifically includes any licensed peace officer within his or her jurisdiction in Douglas County.

Custodian - A person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog, excluding veterinarians or kennel operators provided that the dogs are kept only temporarily on the premises and are owned by others.

Dangerous Dog - Any dog that has

- A. without provocation, inflicted substantial bodily harm on a human being on public or private property,
- B. killed a domestic animal without provocation while off of the owner's property, or
- C. been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Dog - Any animal in whole or in part of the species canis familiaris.

Hearing Examiner - A person or persons designated by the county to conduct the hearings prescribed in this ordinance.

Own - To keep, harbor, or have control, charge, or custody of a dog. This term shall not apply to dogs owned by others which are temporarily maintained on the premises of a veterinarian or kennel operator.

Owner - Any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.

Potentially Dangerous Dog - Any dog that

- A. when unprovoked, inflicts bites on a human or domestic animal on public or private property,
- B. when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
- C. has a known propensity, tendency, or disposition to attack unprovoked causing injury or otherwise threatening the safety of

humans or domestic animals.

Proper Enclosure - "Proper Enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure with the windows open or in which door or window screens are the only obstacles that prevent the dog from exiting.

Substantial Bodily Harm - "Substantial Bodily Harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

Veterinarian - A veterinarian licensed in the state of Minnesota.

## SECTION 5. DOG ENFORCEMENT PROCEDURES.

- A. The county board shall, from time to time, designate animal control officers and/or licensed peace officers to enforce the provisions of this ordinance and the state dangerous dog statute within Douglas County. An animal control officer or licensed peace officer shall: (1) have the right to demand the exhibition of a dog; (2) be required to keep accurate records of the impoundment and disposition of all dogs within the custody of the county; (3) be required to investigate reported injuries from dogs and keep accurate records of such cases; (4) be required to keep accurate records of all money received and to comply with proper auditing and bookkeeping standards; and (5) perform enforcement duties as prescribed in Minn. Stat. Chapter 347.
- B. No person shall interfere with, hinder, or molest an animal control officer or licensed peace officer who is enforcing or attempting to enforce this ordinance or state law.
- C. No person shall seek to release any dog in the custody of an animal control officer or licensed peace officer except as herein provided.

**SECTION 6. REGULATIONS REGARDING POTENTIALLY DANGEROUS DOGS.**

- A. Determination. An animal control officer or other law enforcement official shall determine a dog is a potentially dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog: (1) has, when unprovoked, inflicted bites on a human or domestic animal on private or public property; or (2) has, when unprovoked, chased or approached a person including a person on a bicycle, upon streets, sidewalks or any private or public property, other than the dog owner's property, in an apparent attitude of attack; or (3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- B. Notice of potentially dangerous dog. Upon the determination by an animal control officer or licensed peace officer that a dog is potentially dangerous, a record of the notice and the reasons for the determination shall be kept by the animal control officer or licensed peace officer that made the determination. The county shall provide a notice of a potentially dangerous dog to the owner of such dog by personally serving the owner or a person of suitable age at the residence of such owner. The notice shall describe the dog deemed to be potentially dangerous and identify the officer who has made the determination. The notice shall also inform the owner of the right to appeal the officer's determination within 14 days after receipt of the notice. If no timely appeal is received by the County, the dog shall be considered a potentially dangerous dog and record of the determination shall be maintained by the County. The determination of potentially dangerous dog may be used as evidence in any subsequent proceeding for a dangerous dog determination pursuant to Section 7 (B) of this ordinance and/or Minn. Stat. 347.50 Subd. 1(3).

- C. Hearing Before Examiner. If the owner timely appeals the officer's determination that the owner's dog is a potentially dangerous dog, a hearing shall be held within 30 days after receipt of the appeal by the County. Notice of the hearing date shall be sent to the dog owner by mail. At the hearing, the hearing examiner shall receive evidence of whether the dog is potentially dangerous or not. The Minnesota Rules of Evidence need not be strictly followed, and the records of the animal control officer or law enforcement official shall be considered without further foundation. After considering all evidence submitted, the hearing examiner shall make written findings of fact and reach a conclusion whether the dog is a potentially dangerous dog as defined in this ordinance. The findings and conclusions shall be made within 10 working days after the hearing and shall be thereafter personally served on the owner of the dog or a person of suitable age at the residence of such owner. The decision of the hearing examiner shall be final but is appealable to a court of law.
- D. Effect of Determination. If the dog is held to be potentially dangerous, the law enforcement agency shall keep a record of that determination. The determination of potentially dangerous dog may be used as evidence in any subsequent proceeding for a dangerous dog determination pursuant to Section 7 (B) of this ordinance and/or Minn. Stat. 347.50 Subd. 1(3).

## SECTION 7. REGULATIONS REGARDING DANGEROUS DOGS.

- A. Requirement. No person may own a dangerous dog in Douglas County unless the dog is registered as provided in this section.
- B. Determination of Dangerous Dog. An animal control officer or other law enforcement official shall determine that a dog is a dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog: (1) has, without provocation, inflicted substantial bodily harm on a human being on public or private property, or (2) has killed a domestic animal without provocation while off the owner's property; or (3) has been determined to be a potentially dangerous dog, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

- C. Law Enforcement Exemption. The provisions of this section do not apply to dogs used by law enforcement officials for police work.
- D. Exemption. Dogs may not be declared dangerous if the threat, injury or damage was sustained by a person: (1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog; (2) who was provoking, tormenting, abusing, or assaulting the dog who can be shown to have repeatedly, in the past, provoked, tormented or assaulted the dog; or (3) who is committing or attempting to commit a crime.
- E. Notice of Dangerous Dog. Upon a determination by an animal control officer or other licenced peace officer that a dog is a dangerous dog as defined in this ordinance, the County shall provide a notice of dangerous dog to the owner of such dog by personally serving the owner or a person of suitable age at the residence of such owner. The notice shall describe the dog deemed to be dangerous and shall identify the name of the officer making the determination. The notice shall also inform the owner of the right to appeal the officer's determination within 14 days after receipt of the notice. Immediately upon receipt of the notice, the owner shall confine the dog in a proper enclosure as herein defined. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration. If no timely appeal is received by the County, the owner of the dangerous dog shall comply with the requirements set forth in paragraph G of §7 → ~~Section 8~~, including, but not limited to, the registration of the dangerous dog with the county auditor.
- F. Hearing Before Examiner. If the owner timely appeals the officer's determination that the owner's dog is a dangerous dog, a hearing shall be held within 30 days after receipt of the appeal by the County. Notice of the hearing date shall be sent to the dog owner by mail. Pending the outcome of the appeal, the owner shall confine the dog in a proper enclosure as herein defined or shall muzzle the dog. The

hearing examiner shall receive evidence whether the dog is dangerous or not. The Minnesota Rules of Evidence need not be strictly followed, and the records of the animal control officer or law enforcement official shall be considered without further foundation. After considering all evidence submitted, the county hearing examiner shall make written findings of fact and reach a conclusion whether the dog is a dangerous dog as defined in this ordinance. The findings and conclusions shall be made within 10 working days after the hearing and shall be thereafter personally served on the owner of the dog or a person of suitable age at the residence of such owner. The decision of the hearing examiner shall be final but is appealable to a court of law. If the officers determination that the dog is a dangerous dog is upheld then the dog must be registered within 5 days of the date the findings and conclusions are served on the owner.

- G. Registration. The Douglas County Auditor shall issue a Certificate of Registration to the owner of a dangerous dog if the owner presents sufficient evidence that: (1) there exists a proper enclosure for the dangerous dog and a posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property; and (2) a surety bond has been issued by a surety company authorized to conduct business in the State of Minnesota in a form acceptable to Douglas County in the sum of at least \$50,000, payable to any person injured by the dangerous dog, or a policy of liability insurance has been issued by an insurance company authorized to conduct business in this state in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the dangerous dog. Evidence of the surety bond or insurance policy shall be presented to the county auditor when the dangerous dog is registered.
- H. Warning Symbol. For each Certificate of Registration granted to an owner for a dangerous dog, Douglas County shall provide for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous dog on the property. The warning symbol design shall be the design specified by the Commissioner of Public Safety of the State of Minnesota. Douglas County shall charge the dangerous dog owner a reasonable fee to cover its



administrative costs and the cost of the warning symbol.

- I. Warning Tag. A dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol affixed to the dogs collar at all times. Douglas County shall use the tag with the symbol designed and approved by the Commissioner of Public Safety in the State of Minnesota.

## SECTION 8. CONFISCATION.

- A. Seizure. Any animal control officer or licensed peace officer having jurisdiction shall immediately seize any dangerous dog if: (1) after the notice of dangerous dog has been given to the owner the dog is not maintained in the proper enclosure; (2) after the notice of dangerous dog has been provided to the owner the dog is found outside the proper enclosure and is not muzzled and under the physical restraint of a responsible person as required in Section 7; (3) after 14 days after the owner has notice that the dog is dangerous and no appeal has been filed, the dog is not validly registered under Section 7 of this ordinance; or (4) after 5 days from the owners receipt of the findings and conclusions upholding the dangerous dog determination the owner is not in compliance with Section 7 of this ordinance.
- B. Conviction of Owner. If an owner of a dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper humane manner, and that the owner pay the cost incurred in confiscating, confining, and destroying the dog.
- C. Reclaimed. A dangerous dog seized under Section 8.A. may be reclaimed by the owner of the dog upon payment of impounding and boarding fees, and presenting proof to the appropriate animal authority that the requirements of this ordinance will be met and upon a presentation of proof of a surety bond required by Section 7 of this ordinance. A dog not reclaimed under this subdivision within

seven (7) days may be disposed of as provided under Minnesota Statute 35.71, Subd. 3, and the owner is liable to the animal control authority for cost incurred in confining and disposing of a dog.

- D. Subsequent offenses: Seizure. If a person has been convicted of a misdemeanor for violating a provision of Minnesota Statute 347.51 or 347.52, and/or this ordinance, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control authority having jurisdiction. If the owner is convicted of the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper humane manner and the owner pay the cost of confining and destroying the animal. If the person is not convicted of the crime for which the dog was seized and no other provisions of this ordinance apply, the owner may reclaim the dog upon payment to the animal control authority of a fee for the care and boarding of the dog. If the dog is not reclaimed by the owner within seven (7) days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of as provided under Minnesota Statutes Section 35.71, Subd. 3, and the owner is liable to the animal control authority for the cost incurred in confining, impounding, and disposing of the dog.


SECTION 9. PENALTIES. Unless otherwise specifically noted herein, a violation of any provision of this ordinance shall be a misdemeanor under Minnesota law.

SECTION 10. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this decision is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this division. The Board of Commissioners hereby declares that it would have adopted the division in each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

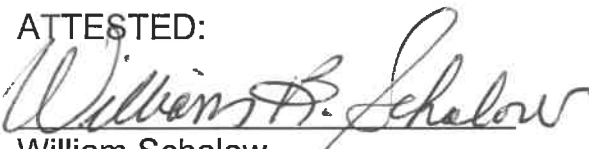
SECTION 11. EFFECTIVE DATE. This ordinance shall be in full force and effect

on the 1<sup>st</sup> of July, 2001.

DOUGLAS COUNTY BOARD  
OF COMMISSIONERS

  
\_\_\_\_\_  
Vernon Lorsung, Chairman

ATTESTED:

  
\_\_\_\_\_  
William Schalow  
Douglas County Coordinator